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SUBJECT: THE NETHERLANDS: TIP ACTION GUIDE TO COMBAT TIP
(2008-2009)

REF: 10-15-08 BUCKNEBERG-SMITH EMAIL

11. This is an action request (see para 5).

12. The 2008 Trafficking in Persons Report rates countries as Tier 2 when host governments are not meeting the minimum standards to combat trafficking in persons (TIP) as defined by the Trafficking Victims Protection Act (TVPA), but are making significant efforts to do so. Remaining on Tier 2, however, is not guaranteed; governments must continue to combat TIP and especially address areas that need further work. All Tier 2 countries will move to Tier 1 if and when they evidence satisfaction of all of the minimum standards. Tier 2 countries are also subject to slipping to Tier 2 Watch List or Tier 3 if they do not continue to make significant efforts to meet the minimum standards from one year to the next.

13. Please keep in mind the TIP Report measures host government efforts. To be useful for tier placement purposes, there should be a concrete role or tangible value-added by a host government in activities by NGOs, international organizations, or posts.

14. The following explains steps the government needs to take in order to fully comply with the Minimum Standards for the elimination of trafficking, and therefore qualify for a Tier 1 ranking, and offers suggestions to address specific areas of concern highlighted in the 2008 TIP Report. Legal standards are excerpted from the Trafficking Victims Protection Act, as amended. Implementation Principles are excerpted from guidance issued in 07 State 150188 (October 29, 2007) and are not specific to any country or region. Country specific points are not exhaustive, but offer steps and possible ways to address specific areas of concern. The Department assesses government efforts each year. All governments must show concrete evidence of serious and sustained efforts in eliminating severe forms of trafficking from the previous year. Tier ranking determinations will be based on the government's efforts to comply with the Minimum Standards to Combat TIP during the April 2008 - March 2009 reporting period.

15. Begin action request: Post is requested to explain to the host government the areas of specific concern noted in the TIP Report and why the government failed to meet the minimum standards (and thus did not meet the requirements for Tier 1 placement). Post may offer steps in para 6 to the host government as possible ways to address specific areas of concern. While the list is not exhaustive, it should focus the host government on deficiencies in meeting the minimum standards and examples of ways to overcome them. As every year, the Department will weigh the government's level of support and participation in reported activities, as well as the efficacy and sustainability of government actions, in light of its resources and capabilities.

Begin Action Guide and internal numbering.

11. Legal Framework: The government should criminally prohibit

TIP and punish such acts.

(A) For TIP crimes, punishment should be prescribed that is commensurate with that for grave crimes, such as forcible sexual assault.

(B) For TIP crimes, punishment should be prescribed that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.

Implementation Guideline: At minimum, governments must criminalize and prescribe penalties for all forms of trafficking relevant in the country, including forced labor. This must include the elements of "severe forms of trafficking in persons" -- force, fraud, and coercion. Although desirable, this need not be accomplished through a comprehensive law, so long as relevant elements of trafficking, specifically including fraud/deception and coercion along with force, are covered by the country's laws.

Sanctions for sex trafficking should be on par with rape. The prescribed penalties for sex trafficking crimes or trafficking involving rape, kidnapping or death should be substantially similar to those for rape, taking into account the full range of sentences available. Consistent with the UN Convention Against Transnational Organized Crime, criminal penalties to meet this standard should include a maximum of at least four years deprivation of liberty, or a more severe

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penalty.

COMPLIANCE: The government was in full compliance as reported in the 2008 TIP Report.

Positive results that should be maintained:

-- Since January 2005, the Netherlands has prohibited all forms of trafficking through Criminal Code Article 273, which prescribes penalties for any form of trafficking of six to 15 years, imprisonment and fines of up to \$67,500. These penalties are sufficiently stringent and commensurate with those prescribed for rape.

12. Prosecution and other Law Enforcement Efforts: The government should show serious and sustained efforts to combat TIP by vigorously investigating and prosecuting TIP acts, and convicting and sentencing persons responsible for such acts.

(A) The government must provide data regarding investigations, prosecutions, convictions, and sentences, consistent with its capacity to do so, or it shall be presumed not to have vigorously investigated, prosecuted, convicted or sentenced such acts.

Implementation Guideline: All governments, consistent with their capacity to do so, are required to submit full comprehensive data on trafficking enforcement actions, including length of sentences actually imposed on convicted traffickers, as evidence of their vigorous law enforcement efforts. Imposed sentences should involve significant jail time, with a majority of cases resulting in sentences on the order of one year imprisonment or more, but taking into account the severity of an individual's involvement in trafficking, imposed sentences for other grave crimes, and the judiciary's right to hand down punishments consistent with that country's laws. Convictions obtained under other criminal laws and statutes can be counted as trafficking if the government verifies that they involve trafficking offenses.

COMPLIANCE: The government was fully compliant as reported in the 2008 TIP Report.

Positive results that should be maintained and/or exceeded:

-- The Government of the Netherlands continued to show substantial law enforcement efforts to combat trafficking. In 2006, the last year for which statistics are available, police investigated and referred 201 sex trafficking cases for prosecution, an increase from 138 investigations in 2005. The public prosecutor prosecuted 216 sex trafficking cases, an increase from 138 in 2005, and obtained 90 convictions of trafficking offenders in 2006. The average prison sentence imposed was approximately 27 months, imprisonment, and five-and-a-half years, imprisonment in cases involving sexual violence.

-- The College of Attorneys-General is investigating whether judges are systematically giving appropriate sentences in trafficking cases.

-- In 2008, one labor trafficking case led to a conviction with a three-year prison term. Nine labor trafficking investigations are ongoing.

Recommended measures to ensure that the country continues to fully comply with Minimum Standards:

-- Continue to review sufficiency of sentences in trafficking cases.

-- Continue to explore ways to improve prosecution of labor trafficking cases.

-- Consider closer collaboration with the Netherlands Antilles and Aruba on enhancing overall anti-trafficking efforts.

13. Victim Protection and Assistance: The government should demonstrate serious and sustained efforts to combat TIP by protecting TIP victims and encouraging their assistance in the investigation and prosecution of their traffickers. Protection should include:

(A) provisions for legal alternatives to victims, removal to countries in which they would face retribution or hardship.

(B) ensuring that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts that were committed as a direct result of being

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trafficked.

Implementation Guideline: Critical factors considered in whether a country fully satisfies this part of the minimum standards are: (1) Formal, systematic screening procedures that proactively identify victims and guide law enforcement and other front line responders in the process of victim identification. (2) Shelter, health care, and counseling should be available to victims, allowing them to recount their trafficking experience to trained social counselors and law enforcement at a pace with minimal pressure. Shelter and care may be provided in cooperation with NGOs, but part of the government's responsibility includes funding and referral to NGOs providing services; to the best extent possible, trafficking victims should not be held in immigration detention centers, or other detention facilities.

Factors also considered and strongly recommended for favorable placement are: (1) Victim/witness protection, rights and confidentiality; i.e., governments should ensure that victims are provided with legal and other assistance and that, consistent with its domestic law, proceedings are not prejudicial to victims' rights, dignity or psychological well-being; and that victims are provided information in a language they understand. (2) Source and destination countries share responsibility in ensuring the safe, humane and, to the extent possible, voluntary repatriation/reintegration for victims. At a minimum, destination countries should contact a competent governmental body, NGO or IO in relevant source country to ensure that

trafficked persons who return to their country of origin are provided with assistance and support necessary to their well-being. Trafficking victims should not be subjected to deportations or forced returns without safeguards or other measures to reduce the risk of hardship, retribution, or re-trafficking.

COMPLIANCE: The government was fully compliant as reported in the 2008 TIP Report.

Positive results that should be maintained and/or exceeded:

-- The government demonstrated increased efforts to protect trafficking victims. In 2007, the government registered 716 victims, up from 579 victims in 2006.

-- Dutch authorities provided a temporary residence mechanism to allow trafficking victims and witnesses to stay in the Netherlands during the investigation and prosecution of their traffickers; this included a reflection period of three months for victims to consider pressing charges. During this period, the government provides victims with legal, financial, and psychological assistance, including shelter (in facilities that also serve victims of domestic violence), medical care, social security benefits, and education financing. In October 2007, the Justice Ministry further eased requirements for trafficking victims to obtain temporary and permanent residence permits.

-- The government opened two shelters for male victims in 2007. In December 2007, the government raised the budget for protection of trafficking victims and plans to expand shelter capacity and create additional separate shelters for men. In May 2007, the city of Amsterdam opened a special trafficking coordination center to facilitate NGO-police communication and shelter up to 10 women or girls. Since 2007, the government has placed single, underage asylum seekers at secret locations under police supervision and provided intensive counseling to prevent them from being trafficked.

-- Victims are not penalized for unlawful acts committed as a direct result of being trafficked.

-- The Dutch Foreign Ministry provides roughly \$3.75 million per year to fund international anti-trafficking and victim protection programs, particularly in principal victim source countries such as Romania, Bulgaria, and Nigeria.

Recommended measures to ensure that the country continues to fully comply with Minimum Standards:

-- Evaluate why many reported trafficking victims decline to assist in the prosecution of their traffickers, and whether additional government measures would encourage more victims to do so

-- Continue efforts to proactively identify trafficking victims in the legalized prostitution sector

14. Prevention: The government should demonstrate serious and sustained efforts to combat TIP by adopting measures to prevent TIP. Measures such as:

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(A) steps to inform and educate the public, including potential victims, about the causes and consequences of TIP,

(B) measures to reduce the demand for commercial sex acts and for participation in international sex tourism by nationals of the country,

(C) measures to ensure that its nationals who are deployed abroad as part of a peacekeeping or other similar mission do not engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking,

(D) measures to prevent the use of forced labor or child labor in violation of international standards.

Implementation Guideline: The government should provide/fund a hotline or similar mechanism that offers victims and potential victims assistance/information about TIP. Per the new amendments to the Minimum Standards, starting with the April 2007- March 2008 reporting period to be covered in the 2008 TIP Report, countries should, for example where applicable: (1) Reduce demand for commercial sex acts: Implement or support some form of visible awareness campaign that educates the clients of the sex trade (and potential sex trafficking victims) if the country has a significant sex trafficking problem, or a campaign that targets those who form the demand for victims of forced labor about the nature of the relevant form of TIP. Nations with legalized prostitution should make additional efforts to proactively identify TIP victims among those in prostitution in the legalized sex trade. This includes the systematic and sensitive screening of persons in the legalized sex trade. (2) Address child sex tourism: Countries that have a significant number of nationals traveling abroad as child sex tourists should undertake an awareness campaign that targets tourists traveling to known child sex tourism destinations. (3) Address trafficking and exploitation committed by multinational peacekeepers: Governments with more than 100 troops on peacekeeping or other similar missions abroad should provide anti-TIP training for these troops (directly or through multilateral efforts), and should investigate and, if appropriate, prosecute any allegations of trafficking crimes or crimes of facilitating trafficking or exploiting trafficking victims committed by these troops abroad and referred to it by the UN or another competent organization.

COMPLIANCE: The government was fully compliant as reported in the 2008 TIP Report.

Positive results that should be maintained and/or exceeded:

-- The Netherlands demonstrated strong trafficking awareness-raising efforts during the year. In January 2008, the government renewed its multimedia campaign targeted at sex trade & clients, 8 women in prostitution, and others encouraging them to report signs of trafficking to an anonymous tip line. The government sponsored an initiative to combat trafficking by placing anti-trafficking public service announcements on a website frequented by men seeking women in prostitution. Beginning in 2008, the Social Ministry's Labor Inspectorate will screen brothels to check for signs of exploitation in addition to the regular screening conducted by specially trained police units. In 2007, the Justice Ministry expanded an agreement with the Dutch newspaper association committing newspapers to require escort services to include their business license or Value Added Tax numbers in ads for sexual services. In December 2007, Amsterdam Mayor Cohen presented a plan to & get rid of the underlying criminality⁸ of the red light district that would restrict brothels to a smaller area, exclude pimps from the district, and tighten permit requirements for brothel and escort service operators, to include criminal background investigations.

-- A high level task force on combating trafficking chaired by the attorney general responsible for trafficking prosecution policy was inaugurated in 2008.

-- The Dutch military provides training to all military personnel on the prevention of trafficking and sexual exploitation and additional training on recognizing trafficking victims for Dutch troops being deployed abroad for duty as international peacekeepers. Dutch military personnel serving abroad are prohibited from patronizing sex trade establishments.

-- Dutch military police have a protocol to identify and detain passengers at Dutch airports suspected of child sex tourism. In 2008, the government committed approximately

\$780,000 over three years to an ECPAT project to implement a code of conduct for tourism operators in destination countries to prevent child sex tourism. The government also

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provides funds to ECPAT to show in-flight videos on flights from Amsterdam to popular holiday destinations warning travelers that child sex tourism is prosecutable in the destination country as well as in the Netherlands.

Recommended measures to ensure that the country continues to fully comply with Minimum Standards:

-- Continue anti-trafficking awareness initiatives aimed at educating clients of the commercial sex trade about the causes and consequences of trafficking.

¶5. Corruption and Official Complicity: The government should vigorously investigate, prosecute, convict, and sentence public officials who participate in or facilitate TIP, and take all appropriate measures against officials who condone such trafficking.

(A) This should include nationals of the country who are deployed abroad as part of a peacekeeping or other similar mission who engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking.

(B) The government must provide data regarding such investigations, prosecutions, convictions, and sentences, or it shall be presumed not to have vigorously investigated, prosecuted, convicted, or sentenced such acts.

Implementation Principle: Governments, consistent with their capacity to do so, must provide full comprehensive data on actions taken against TIP related complicity. Information on general government corruption does not satisfy this minimum standard, except in cases in which specific cases of complicity are not reported by the government or known to the USG, but where there is a reasonable probability of such complicity within the wider context of generalized corruption in that country.

COMPLIANCE: There were no specific cases of complicity reported by the government in the 2008 TIP Report.

Recommendation for measures to ensure that the country fully complies with Minimum Standards:

-- Continue to vigorously investigate and prosecute trafficking-related corruption at all levels of law enforcement. Share comprehensive data on investigations, prosecutions, and convictions of complicit officials, and the lengths of sentences imposed on those convicted, if specific cases of complicity have occurred.

End Action Guide and internal numbering.

¶6. The Department appreciates Post's continued efforts to address trafficking in persons issues.

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